

AMENDED IN SENATE JUNE 17, 2004
AMENDED IN ASSEMBLY APRIL 21, 2004
AMENDED IN ASSEMBLY APRIL 15, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2303

Introduced by Assembly Member Leno

February 19, 2004

An act to add Section 451.5 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2303, as amended, Leno. Public utilities: corporate taxation: insolvency.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, and authorizes the commission to fix just and reasonable rates and charges.

This bill would require that any expense resulting from a bonus paid to an executive officer, as defined, of an insolvent *public* utility, *as defined*, be borne by the shareholders of the *public* utility and would prohibit any expense resulting from the payment of a bonus by an insolvent *public* utility from being recovered in rates. *The bill would require the commission to audit insolvent public utilities to ensure that the bill is enforced.*

(2) Under existing law, a violation of the Public Utilities Act or an order of the commission is a crime.

Because certain provisions of this bill would be a part of the act and a violation of those provisions would be a crime, this bill would impose a state-mandated local program by creating a new crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 451.5 is added to the Public Utilities
2 Code, to read:

3 451.5. (a) Any expense resulting from a bonus paid to an
4 executive officer of an insolvent *public* utility shall be borne by the
5 shareholders of the *public* utility. No expense resulting from the
6 payment of a bonus by an insolvent *public* utility may be recovered
7 in rates. *After a public utility becomes insolvent, the commission*
8 *shall perform an audit to ensure that this section is enforced.* For
9 purposes of this section, “insolvent” means the *public* utility has
10 ~~ceased to pay its debts in the ordinary course of business, the utility~~
11 ~~cannot pay its debts as they become due, or the utility’s liabilities~~
12 ~~exceed the utility’s assets.~~ *filed for bankruptcy protection in a*
13 *United States Bankruptcy Court.*

14 (b) The requirements of subdivision (a) do not apply to any
15 bonus that is part of a standard employee compensation contract.

16 (c) For purposes of this section, “executive officer” means any
17 person who performs policy making functions and is employed by
18 the *public* utility, and includes the president, secretary, treasurer,
19 and any vice president in charge of a principal business unit,
20 division, or function of the *public* utility.

21 SEC. 2. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

O

